

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1114 OF 2004

Bharat @ Pintya Baburao Nerlekar... Petitioner
versus

State of Maharashtra ... Respondent

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Mr.M.A. Patil, for the Petitioner.

Mr.V.B. Konde Deshmukh, A.P.P., for the
Respondent.

...

CORAM : A.M.KHANWILKAR, J.

23rd March 2005

P.C.:

. Heard Counsel for the parties. Rule.
Rule made returnable forthwith by consent. Mr.
Konde Deshmukh, A.P.P., waives notice for the
Respondent. As short point is involved, petition
is taken up for final disposal forthwith by
consent.

. This petition takes exception to the order passed by the Deputy Inspector-General of Prisons dated 3rd December 2003 rejecting the Petitioner's application for furlough leave. The sole reason recorded in the impugned order is that if the Petitioner was to be released on furlough leave, there is likelihood of breach of peace in the area where the Petitioner would reside and apprehension to the life of the complainant party.

. Even assuming that there was some positive material against the Petitioner to suggest that if released, the Petitioner would indulge in violence or attack on the complainant party, even then that apprehension could be taken care of by imposing strict conditions on the Petitioner, including not to enter the concerned area, but rejecting the application in toto on this reasoning cannot be sustained by any standards.

. Accordingly, this petition succeeds. The impugned order is set aside with direction to the competent authority to forthwith release the

Applicant on furlough leave as per the Rules by imposing condition that the Applicant shall not enter the relevant area where the complainant party ordinarily resides.

. Ordered accordingly.

(A.M.KHANWILKAR, J.)